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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,507	03/23/2001	Anthony Frank Menninger	41556/04096 (RSIIP057)	6292

22428            7590            10/16/2002

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[REDACTED] EXAMINER

VIG, NARESH

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3629

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	<b>Applicant No.</b>	<b>Applicant(s)</b>
	09/816,507	MENNINGER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Naresh Vig	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2002.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 - 18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 - 18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Response to Amendment***

This is in response to the Applicant's response received on August 01, 2002 to the Office Action dated May 6, 2002. There are 18 claims i.e. claims 1 – 18 are pending for examination.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 18 are rejected under 35 USC § 103(a) as being unpatentable over DealTime International "www.dealtimetime.com" hereinafter known as DealTime in view of in view of Circuit City Stores, Inc. "www.circuitcity.com" hereinafter known as CircuitCity.

Regarding claims 1, 7 and 13, DealTime discloses system and method which allows customers to purchase products online over the internet. DealTime discloses that it is a shopping search engine that helps its customers compare products, prices and stores online.

Visitors (customers) to DealTime.com can select the product they want to purchase by choosing from plurality of categories. Customers indicate the product specifications they are looking for and pricing requirements. DealTime.com searches not only merchant sites but also online classifieds, person-to-person auctions and large auction sites for deals. A search results page then indicates where each offer was found, and provides links to those sites (see article on DealTime.com Spider Web For Bargains by Mary Hillebrand).

DealTime discloses that it searches as many online stores as possible. Some stores pay us a fee for premium placement in our search results (registers plurality of stores).

DealTime allows customers to choose or sort results (collection of data from plurality of stores) alphabetically by store, from lowest to highest price, or by merchant ratings.

Once DealTime has found a store with the product customers want, customers can click on a link to go directly from DealTime's site to the online store, where customer can learn more about the deal and, if customer wants, purchase the product.

DealTime does not disclose comparing first and second information. However, DealTime discloses that it informs its customers when the product they are looking for is out of stock at a vendor on the list. Also, CircuitCity discloses system and method which allows customers to purchase products online over the internet. CircuitCity disclose plurality of ways to fulfill customer order. When a customer wants to pickup the product, CircuitCity allows customer to pickup up to 3 of CircuitCity's store locations, and,

CircuitCity site will let the customer know whether the product is available at those locations. When the customer confirms the order, products purchased by the customer is reserved and waiting for the customer. It is obvious that CircuitCity checks the store inventory at the time of purchase and informs the customer with the current availability of the product. Therefore, it is known at the time of invention to a person with ordinary skill in the art to compare the first (e.g. inventory verified earlier) and second (e.g. current inventory level at the time of purchase) to provide the current availability status to the customer.

Regarding claims 2, 8 and 14, neither DealTime nor CircuitCity disclose to update first information with second information. However, it is obvious to a person with ordinary skill in the art that the inventory information is updated every time the product is either exhausted (sold, removed etc.) or replenished (updating first information). DealTime discloses that it informs its customers when the product they are looking for is out of stock at a vendor on the list. Also, CircuitCity discloses system and method which allows customers to purchase products online over the internet. CircuitCity disclose plurality of ways to fulfill customer order. When a customer wants to pickup the product, CircuitCity allows customer to pickup up to 3 of CircuitCity's store locations, and, CircuitCity site will let the customer know whether the product is available at those locations. When the customer confirms the order, products purchased by the customer is reserved and waiting for the customer. It is obvious that CircuitCity checks the store

inventory at the time of purchase and informs the customer with the current availability of the product. Therefore, it is known at the time of invention to a person with ordinary skill in the art to compare the first (e.g. inventory verified earlier) and second (e.g. current inventory level at the time of purchase) and update the first information to minimize on the inventory status checks every time a customer queries for a product.

Regarding claims 3, 9 and 15, neither DealTime nor CircuitCity disclose updating distributors (stores). However, DealTime disclose that it solicits its users to become an associate (distributor) and compensates its associates. However, it is notoriously known at the time of invention to a person with ordinary skill in the art to update the information at the distributor (stores) to maintain the current information on the inventory.

Regarding claims 4, 10 and 16, DealTime discloses to identify each vendor. Once DealTime has found a store with the product customers want, customers can click on a link to go directly from DealTime's site to the online store.

Regarding claims 5, 11 and 17, DealTime searches not only merchant sites but also online classifieds, person-to-person auctions and large auction sites for deals. A

search results page then indicates where each offer was found, and provides links to those sites (see article on DealTime.com Spider Web For Bargains by Mary Hillebrand).

Regarding claims 6, 12 and 18, DealTime discloses system and method which allows customers to purchase products online over the internet.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Brockman, US Patent 5,884,300.
2. Walker et al., US Patent 6,138,106.
3. An article "DealTime Spider Web For Bargains"

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

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October 1, 2002

*JKW*  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600